

# Notice of Allowability

Application No.

10/550,584

Examiner

Vinod Kumar

Applicant(s)

SHINOZAKI ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 07/20/07.
2. ☒ The allowed claim(s) is/are 1-6, 10-13, 20 and 21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date Same.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

***DETAILED ACTION***

**Status of Objections and Rejections**

1. Office acknowledges the receipt of Applicant's amendments filed in the paper of July 20, 2007. All previous claim objections have been withdrawn in view of claim amendments. All previous claim rejections have been withdrawn in view of claim amendments filed in the paper of July 20, 2007 and Examiner's amendment as set forth below.

***EXAMINER'S AMENDMENT***

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Oleg Ioselevich (Reg. No. 56,963) and Davidson Clifford (Reg. No. 32,728) on August 22, 2007.

In the claims:

Claim 1 (amended). An isolated rice [rice-derived] promoter consisting of DNA that consists of the nucleotide sequence as shown in SEQ ID NO: 1, wherein said promoter is a stress-inducible promoter.

Claim 4 (amended). The vector according to claim 3, [wherein] further comprising structural [coding sequences] and/or regulatory gene coding sequences for enhancing

stress tolerance which are contained so as to be functional under the control of the promoter [according to claim 1].

Claim 5 (amended). The vector according to claim 4, wherein the structural [coding sequences] and/or regulatory gene coding sequences for enhancing stress tolerance are selected from the group consisting of the P5CS (delta-1-pyrroline-5-carboxylate synthase) gene, [which is a key enzyme for proline synthesis,] the AtGolS3 (A[a]rabidopsis thaliana galactinol synthase3) gene [for galactinol synthesis], the Arabidopsis thaliana-derived DREB (dehydration responsive element binding protein) transcription factor gene, the [rice-derived] rice OsDREB ([o]Oryza sativa dehydration responsive element binding protein) transcription factor gene, and the NCED (9-cis-epoxycarotenoid dioxygenase) gene[, which is an enzyme involved in the synthesis of ABA (abscisic acid)].

Claim 6 (amended). The vector according to claim 5, wherein the structural [coding sequences] and/or regulatory gene coding sequences for enhancing stress tolerance [are] is the rice [rice-derived] OsDREB [(oryza sativa dehydration responsive element binding protein)] transcription factor gene[s].

Claim 10 (amended). A method for enhancing stress tolerance of a plant, [compared with a wild type of the plant,] said method comprises: introducing the vector according to claim 4 into the plant, and expressing the gene coding sequences, wherein expression of said coding sequences enhances stress tolerance in the plant as compared to an untransformed plant of the same species.

Claim 12 (amended). The vector according to claim 11, [wherein] further comprising structural [coding sequences] and/or regulatory gene coding sequences for enhancing stress tolerance which are contained so as to be functional under the control of the promoter [according to claim 2].

Claim 13 (amended). A method for enhancing stress tolerance of a plant, [compared with a wild type of the plant,] said method comprises: introducing the vector according to claim 5 into the plant, and expressing the gene coding sequences, wherein expression of said coding sequences enhances stress tolerance in the plant as compared to an untransformed plant of the same species.

Applicants authorized amendment to claims 1, 4-6, 10, 12, and 13 to remove 35 U.S.C. 112, 2<sup>nd</sup> paragraph related issues.

The above amendments were made to obviate potential issues under 35 U.S.C. 112, 2<sup>nd</sup> paragraph.

### ***Conclusions***

3. Claims 1-6, 10-13, and 20-21 are allowed.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinod Kumar whose telephone number is (571) 272-4445. The examiner can normally be reached on 8.30 a.m. to 5.00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
PHUONG T. BUI  
PRIMARY EXAMINER